

MICHAEL A. KAKUK
Office of the Montana State Auditor,
Commissioner of Securities and Insurance (CSI),
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Attorney for the CSI

**BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE,
OFFICE OF THE MONTANA STATE AUDITOR**

IN THE MATTER OF:)	CASE NO. INS-2014-320
)	
THE PRUDENTIAL INSURANCE)	CONSENT AGREEMENT AND
COMPANY OF AMERICA,)	FINAL ORDER
)	
Respondent.)	
)	

This Consent Agreement (Agreement) is entered into by the Office of the Montana State Auditor, Commissioner of Securities and Insurance (CSI), acting pursuant to the authority of the Montana Insurance Code, Mont. Code Ann. § 33-1-101 et seq. (Code), and The Prudential Insurance Company of America. The Final Order (Order) is issued by the authority of the Commissioner of Securities and Insurance, Office of the Montana State Auditor (Commissioner)

RECITALS

WHEREAS, on November 17, 2009, Respondent sent a letter and affidavit affirming to the CSI that Respondent was not using gender and/or marital status in any underwriting, rating, forms, or endorsements in any long term care (LTC) policies in Montana;

WHEREAS, Respondent discovered through a rate revision request for Prudential's GLTC3 product, form number 83500 BFW 5005, et. al. (the LTC Policies), that some Montana

residents were enrolled in the LTC policies, which included a marital discount in their forms and rates;

WHEREAS, the CSI understands that the LTC policies were issued by Respondent to replace substantially similar coverage containing discounts from another insurer, and that Respondent was unaware that Montanans were enrolled in the LTC Policies at the time Respondent filed its affidavit with the CSI in 2009;

WHEREAS, Respondent has corrected the marital status discounts for those Montana residents in its rate revision filing, and the CSI has approved Respondent's modified rate increase; and

WHEREAS, the CSI and Respondent agree that the best interests of the public would be served by entering into this Agreement.

THEREFORE, in consideration of the mutual undertakings contained in this Agreement, the CSI and Respondent hereby agree to settle this matter pursuant to the following terms and conditions:

STIPULATIONS AND CONSENTS

I. Respondent stipulates and consents to the following:

A. Respondent admits to the allegations in the Recitals, above.

B. Within ten business days from the execution of this Agreement,

Respondent shall pay a fine of five thousand dollars (\$5,000.00) The payment shall be in the form of check made payable to the State of Montana, and sent to:

Montana State Auditor
c/o Michael A. Kakuk
840 Helena Avenue
Helena, MT 59601

C. Respondent agrees to correct and resubmit its form filings with the CSI for the LTC Policies to provide a “household” or “partner” discount with a broader definition than its previous marital discount to future Montana residents added to the LTC Policies.

D. Respondent agrees to follow the requirements of Montana law, including the Code. Respondent specifically agrees to review its other LTC policies for any other potential utilization of gender or marital status in its rating, and to notify the CSI of any other violations within six months of the execution of this Agreement.

E. Respondent fully and forever releases and discharges the CSI, its employees, and its agents from any and all actions, claims, causes of action, demands, or expenses for damages or injuries, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising out of this Agreement.

F. Respondent specifically and affirmatively waives a contested case hearing and all rights to appeal under the Montana Administrative Procedure Act, Mont Code Ann. § 2-4-101 et seq., and elects to resolve this matter on the terms and conditions set forth herein.

G. Respondent acknowledges that this Agreement is signed by its authorized representative, who has read and understands each term of this Agreement.

H. Respondent acknowledges that it enters into this Agreement voluntarily and without reservation.

II. All parties to this Agreement stipulate and consent as follows:

A. The CSI has jurisdiction over the subject matter of this Agreement.

B. This Agreement is entered without adjudication of any issue, law, or fact.

It is entered solely for the purpose of resolving the CSI's investigation and allegations, and is not intended to be used for any other purpose.

C. The CSI warrants and represents that so long as Respondent complies with the terms of this Agreement, the CSI will not bring any further action against Respondent arising from facts known to the CSI as of the date of the Agreement relating to the Recitals.

D. The applicable statute of limitations is tolled for two years from the date of execution of this Agreement with regard to the allegations set forth above. In the event Respondent violates the terms of this Agreement at any time before the applicable statute of limitations has run, the CSI reserves the right to seek any additional administrative penalties or further regulatory action.

E. This Agreement constitutes the entire agreement between the parties and no other promises or agreements, either express or implied, have been made by the CSI or by any member, officer, agent, or representative of the CSI to induce Respondent to enter into this Agreement.

F. This Agreement may not be modified orally, and any subsequent modifications to this Agreement must be mutually agreed upon in writing to be effective.

G. This Agreement shall be incorporated into and made part of the attached Order issued by the Commissioner.

H. The Order will be an order of the Commissioner and is effective upon signing. The CSI has jurisdiction over the enforcement of the Order, and failure to comply with it may constitute a separate violation of the Code, pursuant to §§ 33-1-317 and 318, and may result in subsequent legal action by the CSI.

I. This Agreement shall be effective upon signing of the Order.


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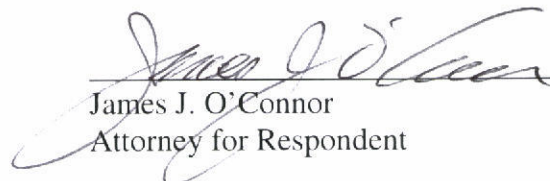
J. This Agreement and Order are public records under Montana law and as such may not be sealed or otherwise withheld from the public.

DATED this 24th day of July, 2015.

**OFFICE OF THE MONTANA STATE
AUDITOR, COMMISSIONER OF
SECURITIES AND INSURANCE**

By: 
MICHAEL A. KAKUK
Attorney for the CSI

APPROVED AS TO FORM on this 23rd day of July, 2015.


James J. O'Connor
Attorney for Respondent

DATED this 23rd day of July, 2015.

THE PRUDENTIAL INS. CO. OF AMERICA

By: Karen L. Smyth
Name: Karen L. Smyth
Its: Vice President

FINAL ORDER

Pursuant to the authority vested by Mont. Code Ann. § 2-4-603 and § 33-1-101 et seq.,
and upon review of the foregoing Consent Agreement, and good cause appearing,

IT IS HEREBY ORDERED that the foregoing Consent Agreement between the CSI and
Respondent The Prudential Insurance Company of America, is adopted as if set forth fully
herein.

DATED this 27th day of July, 2015.


MONICA J. LINDEEN

Commissioner of Securities and Insurance,
Office of the Montana State Auditor

cc: Michael A. Kakuk
James J. O'Connor